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MATT BLUNT

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Documents will be accepted for filing on all regular workdays from 8:00 a.m. until 5:00 p.m. We encourage early filings to facilitate the timely publication of the *Missouri Register*. Orders of Rulemaking appearing in the *Missouri Register* will be published in the *Code of State Regulations* and become effective as listed in the chart above. Advance notice of large volume filings will facilitate their timely publication. We reserve the right to change the schedule due to special circumstances. Please check the latest publication to verify that no changes have been made in this schedule. To review the entire year's schedule, please check out the web site at <http://www.sos.state.mo.us/adrules/pubsched.asp>

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HOW TO CITE RULES AND RSMo

RULES—Cite material in the *Missouri Register* by volume and page number, for example, Vol. 26, *Missouri Register*, page 27. The approved short form of citation is 26 MoReg 27.

The rules are codified in the *Code of State Regulations* in this system—

Title	Code of State Regulations	Division	Chapter	Rule
1	CSR	10-	1.	010
Department		Agency, Division	General area regulated	Specific area regulated

They are properly cited by using the full citation, i.e., 1 CSR 10-1.010.

Each department of state government is assigned a title. Each agency or division in the department is assigned a division number. The agency then groups its rules into general subject matter areas called chapters and specific areas called rules. Within a rule, the first breakdown is called a section and is designated as (1). Subsection is (A) with further breakdown into paragraph 1., subparagraph A., part (I), subpart (a), item I. and subitem a.

RSMo—Cite material in the RSMo by date of legislative action. The note in parentheses gives the original and amended legislative history. The Office of the Revisor of Statutes recognizes that this practice gives users a concise legislative history.

Rules appearing under this heading are filed under the authority granted by section 536.025, RSMo 2000. An emergency rule may be adopted by an agency if the agency finds that an immediate danger to the public health, safety or welfare, or a compelling governmental interest requires emergency action; follows procedures best calculated to assure fairness to all interested persons and parties under the circumstances; follows procedures which comply with the protections extended by the *Missouri* and the *United States Constitutions*; limits the scope of such rule to the circumstances creating an emergency and requiring emergency procedure, and at the time of or prior to the adoption of such rule files with the secretary of state the text of the rule together with the specific facts, reasons and findings which support its conclusion that there is an immediate danger to the public health, safety or welfare which can be met only through the adoption of such rule and its reasons for concluding that the procedure employed is fair to all interested persons and parties under the circumstances.

Rules filed as emergency rules may be effective not less than ten (10) days after filing or at such later date as may be specified in the rule and may be terminated at any time by the state agency by filing an order with the secretary of state fixing the date of such termination, which order shall be published by the secretary of state in the *Missouri Register* as soon as practicable.

All emergency rules must state the period during which they are in effect, and in no case can they be in effect more than one hundred eighty (180) calendar days or thirty (30) legislative days, whichever period is longer. Emergency rules are not renewable, although an agency may at any time adopt an identical rule under the normal rulemaking procedures.

Title 2—DEPARTMENT OF AGRICULTURE Division 30—Animal Health Chapter 2—Health Requirements for Movement of Livestock, Poultry and Exotic Animals

EMERGENCY RULE

2 CSR 30-2.012 Requirements for Captive Elk Entering Missouri During September 1, 2002 through September 30, 2002

PURPOSE: This rule requires all captive elk entering Missouri during September 1, 2002 through September 30, 2002 to be identified and enrolled in the Missouri Department of Agriculture's surveillance program by March 31, 2003. The purpose of this rule is to protect Missouri's elk industry from the introduction of Chronic Wasting Disease.

EMERGENCY STATEMENT: The state veterinarian has determined that Chronic Wasting Disease (CWD) could be devastating to Missouri's elk industry. This rule is based on reports of several states finding animals that have tested positive for CWD and the fact that animals have been exported to several states from known infected herds.

The agency has weighed the compelling governmental interest against the due process rights of the public to notice and comment. In light of potential threat to the elk industry and other wildlife industries, there is a compelling governmental interest to enact this rule

through emergency rulemaking. The scope of this emergency rule is limited to the circumstances creating the emergency and complies with the protections extended in the *Missouri* and *United States Constitutions*. In developing this rule the agency has encouraged discussion with interested parties and provided them the opportunity to offer their comments. The agency believes this emergency rule to be fair to all persons and parties under the circumstances. This emergency rule was filed August 6, 2002, effective August 16, 2002 and expires February 1, 2003.

(1) All captive elk imported into Missouri during September 1, 2002 through September 30, 2002, shall be tagged in a method allowing individual animal identification.

(2) Receiving herds shall be enrolled in the Missouri Department of Agriculture's Chronic Wasting Disease monitoring program by March 31, 2003.

AUTHORITY: section 267.645, RSMo 2000. Emergency rule filed Aug. 6, 2002, effective Aug. 16, 2002, expires Feb. 1, 2003.

Title 2—DEPARTMENT OF AGRICULTURE Division 110—Office of the Director Chapter 1—Missouri Qualified Fuel Ethanol Producer Incentive Program

EMERGENCY AMENDMENT

2 CSR 110-1.010 Description of General Organization; Definitions; Requirements of Eligibility, Licensing, Bonding, and Application for Grants; Procedures for Grant Disbursements; Record Keeping Requirements, and Verification Procedures for the Missouri Qualified Fuel Ethanol Producer Incentive Program. The department is amending sections (2), (3), (4), (6) and (7).

PURPOSE: This amendment requires that qualified fuel ethanol producers be at least fifty-one (51%) percent owned by agricultural producers actively engaged in agricultural production for commercial purposes, drops the requirement to submit grant applications fifteen (15) days before the first day of the month for which the grant is sought, extends the eligibility to receive grants beyond the original sixty (60)-month period, changes the grant period from calendar year to fiscal year, and changes the last month's allocation method if funding runs out in a fiscal year.

EMERGENCY STATEMENT: This emergency amendment is necessary to be in compliance with section 142.028, RSMo, which was revised in the most recent legislative session with an effective date of August 28, 2002. The emergency amendment is needed to change the method used to calculate ethanol producer incentive grants from a calendar year to a fiscal year basis and, as a result, necessitates emergency action. A proposed amendment covering the same material is published in this issue of the *Missouri Register*. This emergency amendment was filed August 14, 2002, effective August 28, 2002, expires February 23, 2003.

(2) Definitions.

(B) Missouri qualified fuel ethanol producer (MQFEP)—Any producer of fuel ethanol whose principal place of business and facility for the fermentation and distillation of fuel ethanol is located within the state of Missouri and is at least fifty-one percent (51%) owned by agricultural producers actively engaged in agricultural production for commercial purposes, and which has made formal

application, posted a bond, and conformed to the requirements of this rule;

(D) Actively engaged in agricultural production for commercial purposes—Producing cereal grain or cereal grain by-products in quantities sufficient to meet the delivery obligations of the ethanol production facility;

[(D)] **(E) Qualified fuel ethanol—Fuel ethanol produced by a MQFEP;**

[(E)] **(F) Missouri agricultural products—Cereal grain or cereal grain by-products produced in Missouri./;**

[(F)] **(G) Department—The Missouri Department of Agriculture; and**

[(G)] **(H) Director—The director of the Missouri Department of Agriculture.**

(3) Criteria for Classification as a Missouri Qualified Fuel Ethanol Producer. To be classified *[an]* as a MQFEP, a producer's principal place of business and facility for the fermentation and distillation of fuel ethanol must be located within the state of Missouri **and must be at least fifty-one percent (51%) owned by agricultural producers actively engaged in agricultural production for commercial purposes. In addition, [and] the producer must—**

(4) Procedures for Obtaining a Missouri Qualified Fuel Ethanol Producer License.

(B) The license application form must include:

1. The fuel ethanol producer's Bureau of Alcohol, Tobacco and Firearms Permit number;

2. The fuel ethanol producer's federal employer identification number or Social Security number;

3. If incorporated, a copy of the Certificate of Good Standing issued by the Missouri Secretary of State;

4. Complete name and address of the owner(s), or the names and addresses of the partners if the MQFEP is a partnership or the names and addresses of the principal officers if the MQFEP is a corporation **or limited liability company;**

5. Certification by the MQFEP's board of directors that at least fifty-one percent (51%) of the owners produce cereal grain or cereal grain by-products in quantities sufficient to meet the delivery obligations of the ethanol production facility;

[5.] **6.** Diagram of the premises (location of the still, etc.);

[6.] **7.** Description of the stills, including their capacity;

[7.] **8.** The amount and source of the feedstocks to be used annually by the facility;

[8.] **9.** The maximum number of gallons of ethanol to be produced annually by the facility; and

[9.] **10.** The amount and source of funds invested in the facility.

(F) To assure renewal effective July 1, renewal license applications must be submitted and received by the department by *[April]* May 30.

(6) Grant Application Procedures.

[(C)] **The completed grant application form must be received by the department fifteen (15) days before the first day of the month for which the grant is sought. Any information or documents submitted by an MQFEP to the department will be considered received by the department on the—**

1. Postal mark date for items delivered by the United States Postal Service;

2. Actual date received for items delivered by any other carrier service; or

3. Actual date received for information received by facsimile within the Jefferson City, Missouri central office of the department.]

[(D)] (C) The grant application form must include the:

1. Complete name and address of the owner(s), or names and addresses of the partners if the MQFEP is a partnership, or the names and addresses of the principal officers if the MQFEP is a corporation **or limited liability company;**

2. Address and location of all fuel ethanol plants owned by the MQFEP. Each MQFEP must include all Missouri plants and plants outside Missouri;

3. Production capacity of each fuel ethanol plant;

4. Estimated number of employees needed to reach the production capacity of each fuel ethanol plant;

5. Number of bushels of Missouri agricultural products used by the MQFEP in the production of fuel ethanol during the preceding quarter;

6. Total number of employees and the number of Missouri citizens employed by the MQFEP during the preceding quarter;

7. Number of bushels of Missouri agricultural products to be used by the MQFEP in the production of fuel ethanol during the month for which the grant is applied;

8. Number of gallons of qualified fuel ethanol the MQFEP expects to manufacture during the month for which the grant is applied;

9. Estimated production of fuel ethanol the MQFEP expects to manufacture during the current fiscal year (July 1 through June 30);

10. A copy of the qualified fuel ethanol producer license; and

11. Name and address of the surety company, the bond number and the amount of the bond posted under this rule.

(7) Grant Disbursement Procedures.

(B) A MQFEP shall be eligible for a monthly grant from the Missouri Qualified Fuel Ethanol Producer Incentive Fund, except that a MQFEP shall be eligible for the grant for a total of sixty (60) months **unless such producer during those sixty (60) months failed, due to a lack of appropriations, to receive the full amount from the fund for which they were eligible, in which case such producers shall continue to be eligible for up to twenty-four (24) additional months or until they have received the maximum amount of funding for which they were eligible during the original sixty (60)-month time period.**

(C) The amount of each monthly grant is determined by calculating the estimated gallons of qualified fuel ethanol to be produced from Missouri agricultural products for the succeeding calendar month, as certified by the department, and multiplying such figure by the per gallon credit established in section 142.028, RSMo and this rule. Each MQFEP shall be eligible for a total grant in any *[calendar]* fiscal year equal to twenty cents (20¢) per gallon for the first twelve and one-half (12.5) million gallons of qualified fuel ethanol produced from Missouri agricultural products in the *[calendar]* fiscal year, plus five cents (5¢) per gallon for the next twelve and one-half (12.5) million gallons of qualified fuel ethanol produced from Missouri agricultural products in the *[calendar]* fiscal year. All such qualified fuel ethanol produced by a MQFEP in excess of twenty-five (25) million gallons shall not be applied to the computation of a grant.

(D) Should available monies be insufficient to pay all MQFEPs the maximum monthly grant allowed by law, available monies will be apportioned so that each MQFEP shall receive a share of monies proportionate to *[the total amount requested by]* **recent production levels of all MQFEPs [for that month].**

AUTHORITY: section 142.028, RSMo [Supp. 1999] 2000. Original rule filed June 14, 1995, effective Dec. 30, 1995. Amended: Filed June 13, 2000, effective Dec. 30, 2000. Emergency amendment filed Aug. 14, 2002, effective Aug. 28, 2002, expires Feb. 23, 2003. A proposed amendment covering this same material is published in this issue of the Missouri Register.

**Title 3—DEPARTMENT OF CONSERVATION
Division 10—Conservation Commission
Chapter 9—Wildlife Code: Confined Wildlife: Privileges,
Permits, Standards**

**ORDER TERMINATING EMERGENCY
AMENDMENT**

By the authority vested in the Conservation Commission under sections 40 and 45 of Art. IV, Mo. Const., the commission hereby terminates an emergency amendment effective August 27, 2002, as follows:

3 CSR 10-9.353 Privileges of Class I and Class II Wildlife Breeders is terminated.

A notice of emergency rulemaking containing the text of the emergency amendment was published in the *Missouri Register* on April 1, 2002 (27 MoReg 547-548).

**Title 3—DEPARTMENT OF CONSERVATION
Division 10—Conservation Commission
Chapter 9—Wildlife Code: Confined Wildlife: Privileges,
Permits, Standards**

EMERGENCY AMENDMENT

3 CSR 10-9.353 Privileges of Class I and Class II Wildlife Breeders. The commission is amending section (3) of this rule.

PURPOSE: This amendment addresses current disease risks associated with the interstate and intrastate transport of cervids that potentially pose a threat to the health of captive cervids and Missouri's wild deer herd, and establishes monitoring standards for captive operations under permit.

EMERGENCY STATEMENT: The Department of Conservation has determined that chronic wasting disease poses significant risks that could be devastating to Missouri's wildlife resources and captive cervid industry. This disease, if introduced into Missouri, is a potential immediate threat to the public health, safety, and welfare. The agency has weighed the compelling governmental interest against the due process rights of the public to notice and comment. In light of the potential health and welfare threats, there is a compelling governmental interest to enact this rule through emergency amendment. Insight provided by the captive cervid industry and the Department of Agriculture has proved extremely beneficial in developing this amendment to minimize the risks of chronic wasting disease associated with the movement of cervids. The agency believes this emergency amendment to be fair to all persons and parties under the circumstances. This emergency amendment was filed on August 14, 2002, effective August 24, 2002, expires February 10, 2003.

(3) Any cervid entering a Class I wildlife breeder operation that has ever been held in a state or province having a documented chronic wasting disease case shall be required to come from a herd comprised of animals that have been certified, through a United States Department of Agriculture approved or state-sponsored program, to be chronic wasting disease free for a minimum of three (3) years. **All elk, elk-hybrids, mule deer, and white-tailed deer introduced into a Class I wildlife breeder operation shall be tagged in a method allowing individual animal identification. All elk, elk-hybrids, mule deer, and white-tailed deer over twelve (12) months of age that die of any cause, within a Class I wildlife breeder operation, shall be tested for chronic wasting disease at a federally approved laboratory. By March 31, 2003, all Class I wildlife breeder operations shall be enrolled in Missouri's chronic wasting disease monitoring program. [Proof of such certification and a)All per-**

mits issued by the state veterinarian's office allowing cervids to enter Missouri **and all chronic wasting disease test results must be kept by the permittee and are subject to inspection by an agent of the department at any reasonable time. All test results documenting a positive case of chronic wasting disease shall be reported immediately to an agent of the department.**

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. This rule was previously filed as 3 CSR 10-10.755. Original rule filed Aug. 18, 1970, effective Dec. 31, 1970. For intervening history, please consult the Code of State Regulations. Emergency amendment filed Aug. 14, 2002, effective Aug. 24, 2002, expires Feb. 10, 2003. A proposed amendment covering this same material is published in this issue of the Missouri Register.

**Title 3—DEPARTMENT OF CONSERVATION
Division 10—Conservation Commission
Chapter 9—Wildlife Code: Confined Wildlife: Privileges,
Permits, Standards**

**ORDER TERMINATING EMERGENCY
AMENDMENT**

By the authority vested in the Conservation Commission under sections 40 and 45 of Art. IV, Mo. Const., the commission hereby terminates an emergency amendment effective August 27, 2002, as follows:

3 CSR 10-9.565 Licensed Hunting Preserve: Privileges is terminated.

A notice of emergency rulemaking containing the text of the emergency amendment was published in the *Missouri Register* on April 1, 2002 (27 MoReg 548-549).

**Title 3—DEPARTMENT OF CONSERVATION
Division 10—Conservation Commission
Chapter 9—Wildlife Code: Confined Wildlife: Privileges,
Permits, Standards**

EMERGENCY AMENDMENT

3 CSR 10-9.565 Licensed Hunting Preserve: Privileges. The commission is amending subsection (1)(B) of this rule.

PURPOSE: This amendment addresses current disease risks associated with the interstate and intrastate transport of cervids that potentially pose a threat to the health of captive cervids and Missouri's wild deer herd, and establishes monitoring standards for captive operations under permit.

EMERGENCY STATEMENT: The Department of Conservation has determined that chronic wasting disease poses significant risks that could be devastating to Missouri's wildlife resources and captive cervid industry. This disease, if introduced into Missouri, is a potential immediate threat to the public health, safety, and welfare. The agency has weighed the compelling governmental interest against the due process rights of the public to notice and comment. In light of the potential health and welfare threats, there is a compelling governmental interest to enact this rule through emergency amendment. Insight provided by the captive cervid industry and the Department of Agriculture has proved extremely beneficial in developing this amendment to minimize the risks of chronic wasting disease associated with the movement of cervids. The agency believes this emergency amendment to be fair to all persons and parties under the circumstances. This emergency amendment was filed on August 14, 2002, effective August 24, 2002, expires February 10, 2003.

(1) Licensed hunting preserves are subject to inspection by an agent of the department at any reasonable time. Animal health standards and movement activities shall comply with all state and federal regulations. Any person holding a licensed hunting preserve permit may release on his/her licensed hunting preserve legally acquired pheasants, exotic partridges, quail and ungulates (hoofed animals) for shooting throughout the year, under the following conditions:

(B) Big Game Hunting Preserve.

1. The hunting preserve for ungulates shall be a single body of land not less than three hundred twenty (320) acres and no more than three thousand two hundred (3,200) acres in size, fenced so as to enclose and contain all released game and exclude all hoofed wildlife of the state from becoming a part of the enterprise and posted with signs specified by the department. Fence height shall meet standards specified in 3 CSR 10-9.220.

2. Any cervid entering a big game hunting preserve operation that has ever been held in a state or province having a documented chronic wasting disease case shall be required to come from a herd comprised of animals that have been certified, through a United States Department of Agriculture approved or state-sponsored program, to be chronic wasting disease free for a minimum of three (3) years. **All elk, elk-hybrids, mule deer, and white-tailed deer introduced into a big game hunting preserve operation shall be tagged in a method allowing individual animal identification. All elk, elk-hybrids, mule deer, and white-tailed deer over twelve (12) months of age that die of any cause, within a big game hunting preserve breeding enclosure, shall be tested for chronic wasting disease at a federally approved laboratory. By March 31, 2003, all big game hunting preserve breeding enclosures shall be enrolled in Missouri's chronic wasting disease monitoring program. [Proof of such certification and a]All permits issued by the state veterinarian's office allowing cervids to enter Missouri and all chronic wasting disease test results must be kept by the permittee and are subject to inspection by an agent of the department at any reasonable time. All test results documenting a positive case of chronic wasting disease shall be reported immediately to an agent of the department.**

3. The permittee may exercise privileges provided in 3 CSR 10-9.353 **only** for species held *[under the big game hunting preserve permit]* **within breeding enclosure(s) contained within the big game hunting preserve.** Any breeding enclosure(s) contained within the big game hunting preserve shall meet standards specified in 3 CSR 10-9.220.

4. Any person taking or hunting ungulates on a big game hunting preserve shall have in his/her possession a valid licensed hunting preserve hunting permit. The permittee shall attach to the leg of each ungulate taken on the preserve a locking leg seal furnished by the department, for which the permittee shall pay ten dollars (\$10) per one hundred (100) seals. Any packaged or processed meat shall be labeled with the licensed hunting preserve permit number.

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. This rule was previously filed as 3 CSR 10-10.765. Original rule filed Jan. 19, 1972, effective Feb. 1, 1972. For intervening history, please consult the Code of State Regulations. Emergency amendment filed Aug. 14, 2002, effective Aug. 24, 2002, expires Feb. 10, 2003. A proposed amendment covering this same material is published in this issue of the Missouri Register.